

the United States, the Endowment invests in our cultural institutions and artists. People in communities small and large in every State have greater opportunities to participate and enjoy the arts. We all benefit from this increased arts presence, and yet the cost is just 65 cents per American. The payback in economic terms has always been several-fold. The payback in human benefit is incalculable.

WILLIAM J. CLINTON.

THE WHITE HOUSE, April 6, 1995.

□ 1245

HOUSING FOR OLDER PERSONS ACT OF 1995

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 126 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 660.

□ 1245

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 660) to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons, with Mr. DUNCAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. CANADY] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 660 corrects a serious problem by amending the Fair Housing Act to remove the significant facilities and services requirement for seniors-only housing. Under H.R. 660, if a community can show that 80 percent of its units have one or more occupants aged 55 or older, and meets certain other requirements, it will pass the housing for older persons test.

When Congress amended the Fair Housing Act in 1988, it broadened the coverage of the act to prohibit discrimination against families with children. In covering discrimination based on familial status, Congress recognized the need to respect the desires of some older people to live among their peers in age-restricted communities and crafted an exemption for senior citizens communities.

The Fair Housing Act defines "housing for older persons" as housing that is occupied by persons 62 years of age or older or housing that is intended for occupancy by persons 55 years of age or

older where there are "significant facilities and services specifically designed to meet the physical or social needs of older persons."

Unfortunately, this exemption has been narrowly construed and does not offer the protection to the elderly intended by Congress in passing the 1988 amendments. Consequently, legislation is necessary to establish a workable and fair exemption to protect senior citizens who wish to live in retirement communities.

The meaning of "significant facilities and services" has been a source of great confusion and controversy since passage of the act. Lack of clear guidelines have made it difficult for senior's communities to qualify for the exemption. In addition, seniors with low or fixed incomes are often unable to afford the amenities which might be sufficient to qualify for the exemption.

The American Association of Retired Persons, which supports H.R. 660, recently issued a report which states that there has been no "successful defense of a claim of exemption for housing for older person among the cases receiving judicial review." This makes it clear beyond any doubt that the existing statutory provisions have been inadequate to realize the original good of the Congress.

Initially, HUD issued regulations which provided little guidance to legitimate seniors' communities seeking to avail themselves of the statutory exemption for seniors communities. The Housing and Community Development Act of 1992 required HUD to issue a revised rule defining "significant facilities and services." On July 7, 1994, HUD issued proposed rules to define the meaning of this language.

After hearing from several thousand senior citizens in a series of public hearings, Assistant Secretary Achtenberg announced on November 30, 1994, that HUD was withdrawing the proposed regulations for seniors-only housing. HUD recently released new regulations for comment which establish a broad checklist of potential services and facilities, and allow self-certification by communities that they are eligible for the exemption.

While these new regulations are a step in the right direction, significant uncertainties remain. Despite the good faith efforts of HUD to provide reasonable guidance, it has become clear that the only way to finally solve this problem is for Congress to take action.

The heart of the legislation, section 2, amends the Fair Housing Act to remove the significant facilities and services requirement. The major inquiry that H.R. 660 requires in order to determine whether a facility or community qualifies for housing for older persons is whether, in fact, the community is comprised of individuals 55 years of age or older. This section also requires the housing facility or community to publish and adhere to policies and procedures demonstrating the intent to provide housing for occu-

pancy by the 55 and over age group at an 80-percent level.

Section 3 of the bill creates a defense against the imposition of money damages for compliance where a person has relied in good faith on the application of the exemption relating to housing for older persons. This section allows an individual to raise a defense which may prevent the imposition of money damages, where he or she relies, in good faith, on the existence of an exemption for housing for older persons and it is later found that the exemption did not apply.

H.R. 660 will bring needed relief to thousands of senior citizens who live in fear that they will be sued for violating the Fair Housing Act because they are living in a facility or community that is designated as seniors-only. It will relieve their fear that their exemption will be taken from them and they will lose the right to live among other older adults in an age-restricted community.

This legislation strikes a reasonable compromise—protecting the rights of families with children and the security and peace of mind of senior citizens.

I want to thank my colleague, the gentleman from Florida, [Mr. SHAW] for his leadership on this issue. He has diligently pursued this matter for a number of years. Without his hard work, this legislation would not have moved forward.

I also want to thank the gentleman from Massachusetts [Mr. FRANK] for his support in moving this legislation to the floor.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, today's housing for older persons amendment to the Fair Housing Act provides a true measure of relief for those moderate- and low-income senior citizens who have convinced us that some of the compliance requirements of the current Fair Housing Act are too onerous.

In this connection, I join with the American Association of Retired Persons in support of this amendment, which eliminates the burdensome significant facilities requirement that senior communities currently have to demonstrate that they have available to be considered seniors-only housing.

I would be remiss if I did not state explicitly that I give pause before I support any change in civil rights laws which weakens that kind of a law in any way, but in this narrow case, I believe in the careful balance which the Fair Housing Act must strike between the legitimate interests of our seniors to maintain age-specific communities for themselves and against the need of families to find decent housing, in 1988, this Congress struck the balance a little too harshly against seniors. And all

we have done in this bill is make a modest adjustment.

The only concern that I had about a provision in this bill which permits a good faith defense against liability for monetary damages in housing discrimination lawsuits prompted me to offer an amendment unsuccessfully to delete the defense from the bill. I did not succeed in that effort, but I was satisfied with the considerable narrowing of the defense that the Committee on the Judiciary adopted, mainly because of the efforts extended by the gentleman from Massachusetts, the ranking minority member of this committee.

So we have an improvement, and the Department of Housing and Urban Development has done a good job of promulgating regulations which clarify the significant facilities requirement as they were required to do in 1988 and again in 1992.

The statutory requirement of the significant facilities remains too expensive, too onerous for many of our senior, moderate- and low-income housing communities. It is for that reason that I urge support for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield 5 minutes and 30 seconds to the gentleman from Florida [Mr. SHAW], the sponsor of this legislation.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding time to me. I also thank him for his leadership in getting this to the House, and I thank the gentleman from Michigan [Mr. CONYERS], the ranking minority member. I also want to recognize the gentleman from Massachusetts [Mr. FRANK], who had a hearing on this last year, when he was chairing the committee, and made a commitment at that time that this would come back to the floor, which the new majority has honored. So I very much appreciate this. It is a bipartisan piece of legislation, and it is one that I think is well thought out. And I think it is very protective of the rights of families and of children.

In 1988, Congress passed the Fair Housing Amendments Act of 1988, which attempted to bar discrimination based on familial status. The 1988 act tried to provide an adequate exemption for those housing communities or developments intended as senior or retirement communities. Up until then, States regulated senior housing through State legislation.

The 1988 act requires communities that qualify as senior housing under the provision, to quote from the rule, that "at least 80 percent of the households have in residence at least one person 55 years of age or older," and to provide "significant facilities and services designed to meet the needs of older persons." Significant facilities is currently the most problematic requirement for exemption from the familial status provision. Seniors' communities throughout the country have been faced with a barrage of lawsuits chal-

lenging their qualifications under this provision. This litigation is costly and burdensome to the communities and unwelcome to the seniors who reside in them. No seniors community which has been challenged in court has ever retained its exemption.

The Housing and Community Development Act of 1992 required HUD to issue a revised rule defining the term "significant facilities." On July 7, 1994, HUD issued proposed regulations to define the meaning of "significant facilities." On November 30, 1994, HUD withdrew the proposed regulations. Once again, HUD has attempted to provide a rule to define "significant facilities" and has released new regulations. Unfortunately, as drafted, the new rules will impose expensive and unnecessary burdens on seniors-only housing communities. For example, a provision that requires a staff member assigned to read to the elderly.

H.R. 660 will make it easier for adult communities to satisfy the Fair Housing regulations. The bill would repeal the "significant facilities and services" requirement that is one of the troublesome and unreasonable tests seniors' communities have had to meet to qualify for an exemption from the 1988 Fair Housing Act.

Under this bill, if a community publicly states and can prove that 80 percent of its units have one or more occupants aged 55 or older and shows an intent to serve the 55 and older population through its advertising, rules and regulations, it passes the adults-only housing test. These two tests are sufficient to protect families with children against discrimination.

I want to be perfectly clear on what I am not trying to do. I am not repealing the protection for persons discriminated against based on familial status, but merely trying to establish communities around the country. The Fair Housing Amendments Act recognized that senior have a right to live in bona fide retirement communities if they choose. It is time the legal language reflects that worthy goal.

I believe, however, that these most recent guidelines are vague and still fail to provide a reasonable certainty of compliance for senior communities that attempt to comply with the 1988 act.

I believe older Americans deserve to have the senior-only housing option preserved. They should not be required to add requirements of communal and rehabilitative services that are not appropriate to the active lifestyle of some senior-only communities.

The elimination of the significant facilities from the 1988 act is of vital concern to seniors throughout Florida and indeed throughout the country. It is vital to every apartment building, every condominium association and every homeowners' association that wishes to retain the senior-only status. I have heard from and continue to hear from hundreds of my constituents about this issue. I continue to receive

calls from other States as well, so this is definitely not a problem unique to Florida.

Let's take this opportunity today to provide peace of mind for senior citizens in 55 and older communities by passing H.R. 660. Let's provide assurances that they can continue to live in their 55 and older retirement communities without having to pay for expensive facilities and services they don't want and don't need. Let us pass this final portion of the Contract With America which responds to the outcry from senior citizens on this issue from every corner of the country.

□ 1300

Mr. CONYERS. Mr. Chairman, the name of the gentleman from Massachusetts, BARNEY FRANK, has been mentioned many times already in this debate.

I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I feel a little bit like the character in the Moliere play who learned that he was speaking prose all his life without knowing it. I find that I am here advocating a part of the contract. That is not a posture I have previously found myself in very often. I did not know that this was part of the contract. It just goes to show that even a stopped clock can be right twice a day.

This is an important piece of legislation. What we did in 1988 was, sensibly, to try to protect children, families with children against discrimination. As the gentleman from Florida [Mr. SHAW], who is the author of this pointed out, this in no way weakens or repeals that substantive legislation.

What we are dealing with here is basically how you establish a certain fact. We recognize, first, that the general principle should be that you do not discriminate against families with children in the sale or rental of housing.

Second, we did not mean that this ruled out the ability to create a community of people who were older. Older people, like the rest of us, differ in their tastes and preferences. Some of them want to live just like everybody else. Others, by the time they reach a certain age, do not ever want to hear another ball bouncing against a wall, they do not want to be awakened by music they do not understand at midnight. They want to be able to get up at 6 o'clock in the morning and not worry about waking up other people. People's patterns in life can change.

Congress sensibly said in 1988, and President Reagan agreed, let us have a protection for children, but let us also say that we can have a separate situation for older people only. To define that, people put in at the time, trying to prevent abuse, a requirement that you had to have special facilities for the elderly. That is wrong, I think now, for a couple of reasons.

First of all, it suggests that if the average age in a place is in the sixties, that automatically means that they are people who cannot get around very well, that they need special facilities. There are communities of people in their sixties and seventies and eighties who do not need any special facilities. Some do, some do not.

Beyond that, and this is where I have found this to be a problem, it is especially a burden on people who live in manufactured housing. In the district I represent, there are a number of very attractive communities of older people in manufactured housing, people living in separate units. They may have one building which is kind of a community room, but they do not have the kind of facilities that you might find in a high-rise building. They have found themselves at a disadvantage.

It is to the credit of Assistant Secretary Roberta Achtenberg at HUD that, given this set of rules, she has shown a great deal of flexibility and understanding in interpreting them. She had one proposal which people pointed out was problematic, and she withdrew it, as has been noted, and she deserves credit for that.

She then came out with a second proposal. I agree with the gentleman from Florida, her second proposal was a considerable improvement. Indeed, I believe that given the framework of the statute, it was about as good as it could be. Therefore, it is not a criticism of her that we have said "You have done a pretty good job of trying to be flexible within the statute, but there is a problem with the statute itself."

That is what this is here to amend. Therefore, we should be very clear, this is not a repeal of the protection for children, this is not any weakening of the substantive rules. It does remove one piece of evidence that you have to have to qualify for an exemption in the law, which remains essentially unchanged.

Finally, I want to note, and I appreciate the good words of the gentleman from Michigan [Mr. CONYERS] about my efforts, the original bill as it came forward or as it came to committee had some language which we thought was too broad in terms of a good faith effort.

What we do here is to say if you are an individual citizen, you are not going to be held to a very high, sophisticated standard in terms of dollars, but if you are a real estate professional, we can hold you to a somewhat higher standard, so we put real estate professionals on notice that they have to be fully cognizant of the facts. If they are not cognizant of the facts and are found to have been deceptive, they might pay a penalty, but that does not apply to individuals.

I think it is a very reasonable piece of legislation, and I thank the gentleman from Florida and others for letting us bring it forward.

Mr. CANADY of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I want to express my support for this important legislation, which injects some commonsense changes into the Federal fair housing law. I want to congratulate the chairman of the Subcommittee on the Constitution of the Committee on Judiciary, the gentleman from Florida, Mr. CHARLES CANADY, and his chief counsel, Kathryn Hazeem, as well as the ranking member of the Subcommittee on the Constitution, the gentleman from Massachusetts, Mr. FRANK, and his chief counsel, Robert Raben; in addition, the gentleman from Michigan, Mr. CONYERS, JOHN CONYERS, the ranking minority member of the Committee on the Judiciary, for their very supportive conduct on this bill.

It has pretty much all been said, and I do not want to repeat it, but I ought to mention that this legislation will protect innocent real estate agents and condominium board Members against personal liability for money damages stemming from this seniors only provision if they have acted in good faith.

The American Association of Retired Persons strongly supports enactment of H.R. 660 as a means of providing needed clarity in the law.

Housing discrimination should not be tolerated in our society, but there have been numerous instances where implementation and administration of the fair housing law has prompted unnecessary confusion and strife. This bill is a step toward fairness, accommodation, and common sense for senior citizens and the communities where they live. I certainly urge an "aye" vote.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 5 minutes to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, it sounds like there is a Florida day today out here on the floor. I have to tell the Members, this piece of legislation has really created in our State some, obviously, notoriety here, because it has been an issue that we have heard about for a couple of years now.

I am just delighted that the House is going to consider the necessary changes in the Fair Housing Act. I want to, along with my other colleagues, congratulate the gentleman from Florida [Mr. SHAW] for bringing this legislation forward, not only this year but also last year.

I want to thank the gentleman from Massachusetts [Mr. FRANK] for having the hearing last year and setting part of this stage so we could move in this

year to consider this legislation before the House.

Mr. Chairman, I think it is also appropriate to say that this is a Florida delegation-sponsored piece of legislation in a bipartisan spirit, and again, and I cannot tell the members how important it is to our seniors in our State. It is just so important.

We have talked about that ever since the 1988 amendments to the Fair Housing Act were signed into law there has been confusion and controversy that have surrounded the definition of "significant facilities and services" in senior citizen housing. The provision would require senior communities to provide these facilities and services designed to meet the special needs of senior citizens.

In a footnote here, I have to tell the Members, I will invite any Member down to my district, and I can assure them that some of these things are not necessary. Some of them have more spirit and more drive than many of us sitting in Congress today, and they are out dancing and doing the kinds of things that we like to see people enjoy in their years as they get a little older.

However, the Department of Housing and Urban Development proposed this rule on this definition, and they first published it last year, which only added to the problem. Then HUD came in, to their credit, and held public hearings. They had one in the State of Florida in Tampa.

I have to tell the Members, hundreds of my constituents drove to Tampa to be heard on this important issue. I think when they came back and once they saw some of the activity that took place, they felt like they had been heard.

At the same time, Mr. Chairman, what we have heard today is that there are sometimes things that cannot just be corrected through a rule or regulation, that we really do have to make changes in the law, which is what I think we are here today for, is to make sure that the changes that are made protect this, and so HUD can go about what they intended to do in their rule recently, and that is give them the tools to do this correctly.

Again, I just want to add my support, and hope that my colleagues on this side will support H.R. 660.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 660, the Housing for Older Persons Act. Stop bureaucrats down at the Department of Housing and Urban Development from harassing those who live in seniors-only housing.

Mr. Chairman, this is a very important issue for older Americans in my district. They should have the opportunity to live with other friends and neighbors which are sharing in the

same life experiences of retirement in the type of community they choose.

In 1990, the Congress passed amendments to the Fair Housing Act intended to protect seniors-only housing from familial status lawsuits. However, bureaucrats down at the Department of Housing and Urban Development, appointed by President Clinton, are not allowing these Americans to follow the law. There is a nebulous requirement that seniors housing include significant facilities and services. HUD has given this term an ominous and expensive definition, that costs thousands of dollars for seniors-only housing in my district.

A clear example of how the Federal Government has wreaked havoc in housing for older persons took place in my own home State. Late last year, seniors at the Windmill Pointe Village Club Association of Orlando, FL, were forced to pay more than \$440,000 in damages and penalties for practicing familial discrimination.

Mr. Chairman, mandating such services as illustrated in the latest regulations issued by HUD will require housing complex owners to double, triple or quadruple rents in mobile home parks or housing complexes. Unless the House of Representatives acts on this bill, the potential of high rents could effectively ban low- and moderate-income elderly from seniors-only housing.

Mr. Chairman, I urge my colleagues to vote for this bill and end this attack on our seniors.

Mr. CONYERS. Mr. Chairman, I yield back the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the record on passage of the Fair Housing Act Amendments of 1988 is clear—Congress specifically recognized the need to protect housing for older persons as a valuable resource for the elderly. Unfortunately, the record is equally clear that the statutory exemption that we crafted requiring significant facilities and services is not working. No community which has been challenged in court has ever retained its exemption. The significant facilities and services requirement imposes expensive and unnecessary requirements on communities seeking an exemption. Seniors communities across the country live in fear that they will have their exemption revoked—or worse—that they will have to use the precious dollars that they have set aside for their retirement to defend themselves in a lawsuit in which they face the unlimited resources and legal firepower of the Federal Government.

The most recent rulemaking by HUD marks the third time that the executive branch has tried to issue regulations to give clear guidance without imposing expensive and burdensome requirements. I think Assistant Secretary Achtenberg has made an admi-

nable effort in attempting to craft flexible regulations, but no amount of rulemaking can save a flawed statute. The best recourse available to us is to amend the law and stop the intimidation of senior citizens—especially those with fixed and low incomes—who can neither afford the expense of significant facilities and services nor lawsuits to defend their right to live their retirement years in peace and security.

Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. STEARNS].

□ 1315

Mr. STEARNS. I thank my colleague for yielding me the time.

Mr. Chairman, I rise today in strong support of H.R. 660, the Housing for Older Persons Act. I wish to thank my good friend and colleague the gentleman from Florida, CLAY SHAW, for his work on this issue. His efforts on behalf of the seniors of this country are commendable. I also want to recognize the chairman of the full committee, Chairman HYDE, and the chairman of the subcommittee, another Florida colleague, Chairman CANADY, both of whom have been instrumental in the fight for fairness for seniors.

The Fair Housing Act of 1988 created a burdensome and intrusive regulation regarding seniors-only housing. The significant facilities and services language has caused far too many problems for the seniors of our country. As you all know, I have worked on this issue since I came to Congress 7 years ago. In 1992, I amended section 919 of the Housing and Community Development Act, requiring that HUD simplify and clarify the exemption language. This year HUD finally published the new rule. The rule does simplify the requirements and ease the burden on housing communities, but does not alter the questionable and confusing facilities and services language. In other words, seniors still face a legal hurdle for doing nothing more than trying to freely live in their own communities.

It has become clear that a full repeal of the questionable regulations is the best solution to this problem. Only by removing the ambiguous language regarding significant facilities and services can we truly protect the rights of seniors. If we pass this bill, there will finally be a clear and concise test, by which seniors only housing facilities can know whether they qualify for the exemption.

Housing discrimination should not be tolerated by our society, and it certainly should be encouraged by legislation. But, the Fair Housing Act does just that: instead of making it easier for seniors to live in their own communities it has created a legal pitfall that assumes seniors are guilty until proven innocent. The act has actually discouraged seniors from exercising their right to live where they want. The Fair Housing Act has been anything but fair.

I urge my colleagues to support H.R. 660. This legislation will provide the fairness and accommodation our Nation's seniors deserve. No longer will they be treated as second-class citizens; no longer will they be punished simply for their age. Finally they will enjoy the fairness promised to them in the Fair Housing Act. Finally they will regain the right to live in peace. I urge an "aye" vote on H.R. 660.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BONO].

Mr. BONO. Mr. Chairman, I thank the gentleman for yielding me the time. Mr. Chairman, I rise in support of H.R. 660, the Housing for Older Persons Act of 1995. In my district, particularly in communities like Hemet and San Jacinto, thousands of seniors suffer from oppressive and unfair regulations when it comes to seniors-only housing.

The bill would repeal the significant facilities requirement that is one of the tests senior communities have had to meet to qualify for an exemption from the 1988 Fair Housing Act. This will bring needed relief to not only my district, but to seniors throughout the country.

I urge my colleagues to support H.R. 660 and end the discrimination against seniors.

Mr. BILIRAKIS. Mr. Chairman, I rise today in strong support of H.R. 660, the Housing for Older Persons Act, legislation of which I am a proud cosponsor.

I am delighted to tell my colleagues that this legislation creates no new programs, expands no bureaucracies, helps our seniors—and will cost us virtually nothing.

It merely clears up some of the tortured "logic" of federal regulation touched off when the Congress sought to amend the Fair Housing Act in 1988. It was a classic example of the law of unintended effects.

In a good-faith effort to prohibit housing discrimination, the Federal Government managed to virtually prohibit senior citizen retirement communities. The more loopholes the Congress sought to open to allow these communities to safely slip through this vague and ill-written law. The more bureaucratic hurdles and hoops were created by the Department of Housing and Urban Development.

These communities were forced to supply "significant facilities and services specifically designed to meet the physical or social needs of older persons." Unfortunately, HUD chose not to define what these services or facilities should be. Seniors communities often sunk hundreds of dollars into service improvements only to be denied HUD certification anyway.

Last year, under pressure from citizens across the country, HUD attempted to clarify this requirement. Instead, it merely added 59 more pages of proposed rules and regulations.

HUD suggestions for costly congregate dining facilities, daily meal delivery and other services regardless of whether they were needed or already available elsewhere led to even more confusion and frustration.

Last month, HUD tried again to clear the bureaucratic swamp it had created following another round of citizen complaints. Again, no

specific requirements were offered, but 12 categories of suggested facilities were advanced—including, as was reported in the Wall Street Journal, “Bingo clubs, bowling trips and Tai-CHI classes.”

It is obvious to me that the only way we are going to drain this swamp is by wiping this outlandish requirement for significant facilities and services off the books entirely—which is what the bill before us does.

I urge my colleagues to strike a blow for fairness and against mind-numbing, bureaucratic nonsense by voting for this legislation today.

Mr. YOUNG of Florida. Mr. Chairman, I rise in strong support of H.R. 660, the Housing for Older Persons Act, which is legislation I have cosponsored to once and for all specify with certainty which housing communities qualify as adult-only communities.

The Fair Housing Act of 1988 prohibited housing discrimination based on familial status. Congress, however, was very clear in providing exemptions for adult-only communities. Unfortunately, in the 7 years since enactment of the law, the Department of Housing and Urban Development has been unable to issue regulations that adequately set out the requirements for adult-only communities that are to be exempted from the act. The result has been great uncertainty among the residents of these communities, volunteers serving in homeowner associations, and real estate agents who sell or rent homes.

It is an issue that has generated great interest among the residents of many, many senior retirement communities across the 10th Congressional District of Florida which I have the privilege to represent. Their concern was heard by the Department of Housing and Urban Development in a public hearing last October in Tampa. Hundreds of Tampa Bay area residents turned out to share these concerns and as a result, HUD announced late last year that it was again withdrawing proposed regulations to clarify which communities are exempt from the Fair Housing Act's requirements.

The primary concern I raised in my testimony at that hearing, which was echoed by the many residents of senior housing communities, is HUD's proposed requirement that these communities provide “significant facilities and services specifically designed to meet the physical or social needs of older persons.” The lack of a clear definition for significant facilities has created havoc in housing communities throughout our Nation, and particularly in Pinellas County, FL. Without some clarification, these communities have been unable to complete the process by which they receive exemptions from the act's familial status discrimination provisions. Regulations promulgated by the Department in 1991 did not clearly define what facilities and services are required to meet this test, and throughout the past 4 years, HUD officials have admitted they are unable to provide a specific list of these requirements.

The result is that many housing communities have not been able to determine with certainty whether they qualify for the exemption. Because HUD has no certification process, the only way this issue can be determined is through the courts. Therefore, communities find themselves in limbo until they are challenged in court and their exemption is approved or rejected. A number of housing

communities throughout our Nation have been challenged in court by HUD and have had their senior-only status overturned.

Congress recognized the problems created by the original 1991 regulations and in October 1992 enacted legislation requiring the Department to issue revised regulations to more clearly define the significant facilities required for communities to retain their senior status. Unfortunately, HUD's latest proposed regulations, issued on March 14, one again fail to clear up the confusion and uncertainty caused by past drafts.

As I have said in cosponsoring legislation in the 101st, 102d, 103d, and this 104th Congress to correct this problem, we must take legislative action to provide a definitive solution if HUD cannot solve the problem and ease the confusion through the regulatory route. The legislation before us today, which I cosponsored, simply deletes the significant structures and services requirement from the law. This enables housing communities to definitively determine whether or not they qualify for the 55-and-older exemption from the familial status discrimination provisions. The sole remaining criteria is whether or not 80 percent of a housing community's residents are 55 or older.

Mr. Chairman, the problem we seek to solve today is not only important to the people of the many adult communities I represent, but to the hundreds of volunteers who serve as directors for the countless housing communities which remain uncertain whether they are in compliance or in violation of Federal law.

This is a good legislative solution to a long overdue problem and I urge the support of my colleagues.

Mr. KOLBE. Mr. Chairman, I rise in strong support of H.R. 660, the Housing for Older Persons Act. This legislation will at long last put to rest a burdensome bureaucratic requirement that senior's housing communities provide significant facilities and services for senior care in order to meet the Fair Housing Amendment Act's adult-only housing test.

I, along with every Member of this body, have heard from literally hundreds of seniors who fear their community will no longer be able to qualify as a senior's community. Every attempt at clarification by the Department of Housing and Urban Development of what is meant by significant facilities has led to even greater confusion. The most recent set of regulations issued in March are a nightmare. HUD has decided that in order to qualify as seniors housing, critical services such as tai-chi and bowling trips must be provided.

Clearly, it is time we acknowledge that the Congress erred during the 1988 expansion of the Fair Housing Act when it mandated that seniors communities provide significant facilities. James Bovard put it best when he wrote in the March 20 edition of the Wall Street Journal: “We don't need Federal bingo mandates for our senior citizens. The real issue in this controversy is how much power politicians and bureaucrats should have to forcibly veto Americans' freedom of association.”

I urge my colleagues to vote in favor of H.R. 660.

Mr. ACKERMAN. Mr. Chairman, I rise in strong support of H.R. 660, the Housing for Older Persons Act. In 1988, Congress amended the Fair Housing Act to prohibit discrimination in housing against families with children providing an exemption in the case of housing

for older persons in order to allow senior citizens to live in age-restricted housing, such as retirement communities.

Unfortunately, since enactment of the 1988 amendments, controversy has surrounded the definition of seniors-only housing which requires significant facilities and services specifically designed to meet the physical or social needs of older persons in order for a specific facility to qualify for the exemption. Some seniors' communities have been faced with housing discrimination lawsuits, due in part to confusion about the types of facilities and services that must be provided in order for a community to qualify.

H.R. 660 removes the significant facilities and services requirement that a seniors community must meet in order to qualify for the exemption and instead allows communities to demonstrate only that it is intended to provide housing for persons 55 and older, and that 80 percent of the housing units are occupied by one or more persons in this age group.

The Older Persons Act also establishes a good faith defense against liability for monetary damages in housing discrimination lawsuits which involve the exemption. This defense protects individuals, such as members of condominium boards, from lawsuits if they acted on a good faith belief that the seniors community qualified for the exemption.

Mr. Chairman, H.R. 660 removes the uncertainty from current law and protects the legitimate right of seniors to live in communities designed for them. I urge my colleagues to support the bill.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Housing for Older Persons Act of 1995”.

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. DEFINITION OF HOUSING FOR OLDER PERSONS.

Subparagraph (C) of section 807(b)(2) of the Fair Housing Act (42 U.S.C. 3607(b)(2)) is amended to read as follows:

“(C) that meets the following requirements:

“(i) The housing is in a facility or community intended and operated for the occupancy of at least 80 percent of the occupied units by at least one person 55 years of age or older.

“(ii) The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under clause (i), whether or not such policies and procedures are set forth in the governing documents of such facility or community.

“(iii) The housing facility or community complies with rules made by the Secretary for the verification of occupancy. Such rules shall allow for that verification by reliable

surveys and affidavits and shall include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification."

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

**SEC. 3. GOOD FAITH ATTEMPT AT COMPLIANCE
DEFENSE AGAINST CIVIL MONEY
DAMAGES.**

Section 807(b) of the Fair Housing Act (42 U.S.C. 3607(b)) is amended by adding at the end the following:

"(5) GOOD FAITH RELIANCE.—(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

"(B) For the purposes of this paragraph, a person engaged in the business of residential real estate transactions may show good faith reliance on the application of the exemption by showing that—

"(i) such person has no actual knowledge that the facility or community is not, or will not, be eligible for such exemption; and

"(ii) the facility or community has certified to such person, in writing and on oath or affirmation, that the facility or community complies with the requirements for such exemption."

The CHAIRMAN. Are there amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCINNIS) having assumed the chair, Mr. DUNCAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 660) to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons, pursuant to House Resolution 126, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground

that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 424, nays 5, not voting 5, as follows:

[Roll No. 297]

YEAS—424

Abercrombie	Danner	Hastert
Allard	Davis	Hastings (FL)
Andrews	de la Garza	Hastings (WA)
Archer	Deal	Hayes
Armey	DeFazio	Hayworth
Bachus	DeLauro	Hefley
Baesler	DeLay	Hefner
Baker (CA)	Dellums	Heineman
Baker (LA)	Deutsch	Herger
Baldacci	Hilleary	Hill
Ballenger	Dicks	Hilliard
Barcia	Dingell	Hinchey
Barr	Dixon	Hobson
Barrett (NE)	Doggett	Hoekstra
Barrett (WI)	Dooley	Hoke
Bartlett	Doolittle	Holden
Barton	Dornan	Horn
Bass	Doyle	Hostettler
Bateman	Dreier	Houghton
Beilenson	Duncan	Hoyer
Bentsen	Dunn	Hunter
Bereuter	Durbin	Hutchinson
Bevill	Edwards	Hyde
Bilbray	Ehlers	Inglis
Bilirakis	Ehrlich	Istook
Bishop	Emerson	Jackson-Lee
Bliley	Engel	Jacobs
Blute	English	Jefferson
Boehlert	Ensign	Johnson (CT)
Boehner	Eshoo	Johnson (SD)
Bonilla	Evans	Johnson, E.B.
Bonior	Everett	Johnson, Sam
Bono	Ewing	Johnston
Borski	Farr	Jones
Boucher	Fattah	Kanjorski
Brewster	Fawell	Kaptur
Browder	Fazio	Kasich
Brown (CA)	Fields (LA)	Kelly
Brown (FL)	Fields (TX)	Kennedy (MA)
Brown (OH)	Filner	Kennedy (RI)
Brownback	Flake	Kennelly
Bryant (TN)	Flanagan	Kildee
Bunn	Foglietta	Kim
Bunning	Foley	King
Burr	Forbes	Kingston
Burton	Ford	Kleczka
Buyer	Fowler	Klink
Callahan	Fox	Klug
Calvert	Frank (MA)	Knollenberg
Camp	Franks (CT)	Kolbe
Canady	Franks (NJ)	LaFalce
Cardin	Frelinghuysen	LaHood
Castle	Frisa	Lantos
Chabot	Funderburk	Largent
Chambliss	Furse	Latham
Chenoweth	Gallegly	LaTourette
Christensen	Ganske	Laughlin
Chrysler	Gejdenson	Lazio
Clay	Gekas	Leach
Clayton	Gephardt	Levin
Clement	Geren	Lewis (CA)
Clinger	Gibbons	Lewis (GA)
Clyburn	Gilchrest	Lewis (KY)
Coble	Gillmor	Lightfoot
Coburn	Gilman	Lincoln
Coleman	Gonzalez	Linder
Collins (GA)	Goodlatte	Lipinski
Collins (IL)	Goodling	Livingston
Collins (MI)	Gordon	LoBiondo
Combest	Goss	Lofgren
Condit	Graham	Longley
Conyers	Green	Lowey
Cooley	Greenwood	Lucas
Costello	Gunderson	Luther
Cox	Gutierrez	Maloney
Coyne	Gutknecht	Manton
Cramer	Hall (OH)	Manzullo
Crane	Hall (TX)	Markey
Crapo	Hamilton	Martinez
Creameans	Hancock	Martini
Cubin	Hansen	Mascara
Cunningham	Harman	Matsui

McCarthy	Pombo	Stearns
McCollum	Pomeroy	Stenholm
McCrery	Porter	Stockman
McDade	Portman	Stokes
McDermott	Poshard	Studds
McHale	Pryce	Stump
McHugh	Quillen	Stupak
McInnis	Quinn	Talent
McIntosh	Radanovich	Tanner
McKeon	Rahall	Tate
McKinney	Ramstad	Tauzin
McNulty	Rangel	Taylor (MS)
Meehan	Reed	Taylor (NC)
Meek	Regula	Tejeda
Menendez	Richardson	Thomas
Metcalf	Riggs	Thompson
Meyers	Rivers	Thornberry
Mfume	Roberts	Thornton
Mica	Roemer	Thurman
Miller (CA)	Rogers	Tiahrt
Miller (FL)	Rohrabacher	Torkildsen
Mineta	Ros-Lehtinen	Torres
Minge	Rose	Torricelli
Mink	Roth	Towns
Moakley	Roukema	Trafigant
Molinari	Roybal-Allard	Tucker
Mollohan	Royce	Upton
Montgomery	Rush	Velazquez
Moorhead	Sabo	Vento
Moran	Salmon	Visclosky
Morella	Sanders	Volkmer
Murtha	Sanford	Vucanovich
Myers	Sawyer	Waldholtz
Myrick	Saxton	Walker
Nadler	Scarborough	Walsh
Neal	Schaefer	Wamp
Nethercutt	Schiff	Ward
Neumann	Schroeder	Waters
Ney	Schumer	Watts (OK)
Norwood	Seastrand	Waxman
Nussle	Sensenbrenner	Weldon (FL)
Oberstar	Serrano	Weldon (PA)
Obey	Shadegg	Weller
Olver	Shaw	White
Ortiz	Shays	Whitfield
Orton	Shuster	Wicker
Owens	Sisisky	Williams
Oxley	Skaggs	Wilson
Packard	Skeen	Wise
Pallone	Skelton	Wolf
Parker	Slaughter	Woolsey
Pastor	Smith (MI)	Wyden
Paxon	Smith (NJ)	Wynn
Payne (NJ)	Smith (TX)	Yates
Payne (VA)	Smith (WA)	Young (AK)
Pelosi	Solomon	Young (FL)
Peterson (FL)	Souder	Zeliff
Peterson (MN)	Spence	Zimmer
Petri	Spratt	
Pickett	Stark	

NAYS—5

Becerra	Bryant (TX)	Watt (NC)
Berman	Scott	

NOT VOTING—5

Ackerman	Dickey	Reynolds
Chapman	Frost	

□ 1341

Mr. WATT of North Carolina changed his vote from "yea" to "nay."

Mr. RUSH changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 660, the bill just passed.

The SPEAKER pro tempore (Mr. HOBSON). Is there objection to the request of the gentleman from Texas?

There was no objection.